

## STATE OF VERMONT

## HUMAN SERVICES BOARD

In re ) Fair Hearing No. V-10/09-534  
 )  
 Appeal of )

# INTRODUCTION

The petitioner appeals a decision on behalf of his daughter by the Office of Vermont Health Access (OVHA) denying his daughter's request for comprehensive orthodontia under Dr. Dynasaur. The issue is whether his daughter's condition meets the criteria for prior authorization for orthodontia. The decision is based upon the evidence admitted at and after hearing.

## FINDINGS OF FACT

1. The petitioner has a thirteen-year-old daughter whose orthodontist has recommended comprehensive orthodontia for her.
2. On or about August 26, 2009, the orthodontist submitted a Prior Authorization form to OVHA indicating that the daughter met one minor criteria, one impacted cuspid.
3. On or about August 27, 2009, OVHA issued a denial for orthodontia finding that the petitioner's daughter did not meet the criteria for orthodontia.

4. On September 11, 2009, the orthodontist (Dr. F.Z.) sent the petitioner a letter describing the daughter's need for orthodontia and course of treatment. Dr. F.Z. wrote that the daughter had an impacted upper right permanent canine and posterior cross bite of both lower bicuspid that he characterized as an unhealthy condition.

5. Petitioner appealed the denial through the MCO grievance procedure and had a meeting with OVHA staff on or about October 6, 2009.

6. On or about October 7, 2009, OVHA issued a decision upholding the denial of orthodontia finding that the petitioner's daughter did not meet the criteria for prior authorization for orthodontia. They found that the daughter did not meet any of the criteria and that the minor criterion for an impacted cuspid was not supported because the tooth had erupted.

7. Petitioner appealed the denial of orthodontia to the Human Services Board. The petitioner was given additional time to seek a second opinion or further clarification from his daughter's orthodontist.

8. The updated dental information from Dr. F.Z. indicated that the daughter had one blocked canine in the upper arch and one blocked canine in the lower arch. The

report did not show the daughter meeting either one major criteria or two minor criteria or any other handicapping condition or medical condition that would support the criteria for medical necessity. OVHA did not revise their denial.

ORDER

OVHA's decision is affirmed.

REASONS

States are required to provide dental services to Medicaid recipients under the age of twenty-one if certain criteria are met as part of the Early, Periodic, Screening, Diagnosis and Treatment (EPSDT) requirements. Dental services are defined at 42 U.S.C. § 1396d(r)(3) to include services:

(B) which shall at a minimum include relief of pain and infections, restoration of teeth, and maintenance of dental health.

Vermont has adopted regulations governing orthodontic treatment consistent with EPSDT requirements. The pertinent sections of W.A.M. § 7314 state:

(7314) Medically necessary orthodontic treatment involves the use of one or more prosthetic devices to correct a severe malocclusion. This definition is consistent with the federal definition found at 42 CFR § 440.120(c).

. . .

(7314.3) To be considered medically necessary, the beneficiary's condition must have one major or two minor malocclusions according to the diagnostic criteria adopted by the department's dental consultant or if otherwise necessary under EPSDT found at rule 4100.

Analysis does not stop at the major or minor criteria. The EPSDT requirements look at whether there are functional impairments equal or greater than the impairments listed for major or minor criteria or whether there are other special medical considerations. Jacobus v. Dep't. of PATH, 177 Vt. 496 (2004), Fair Hearing No. 20,816.

The treating orthodontist or dentist completes a Prior Authorization Request Form that addresses OVHA's criteria.

In the petitioner's case, her orthodontist only checked one of the minor criteria in her initial application. Later, no minor criteria were checked. Two minor criteria are needed to qualify for prior authorization. In addition, there was no orthodontic evidence supporting a claim for EPSDT coverage.

Unfortunately, it cannot be concluded that the petitioner has presented sufficient evidence to show that orthodontia is medically necessary under the rules. Petitioner is free to reapply if any of his daughter's dental or medical providers will document sufficient need.

Based on the evidence, OVHA's decision is affirmed. 3  
V.S.A. § 3091(d); Fair Hearing Rule No. 1000.4D.

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